

I 2006-2007 FUNDING FOR SPECIALIZED BOOKS, MATERIALS AND EQUIPMENT FOR LOW INCIDENCE STUDENTS

Summary of Legal Requirements

Education Code Section 56836.22 provides for funds to purchase specialized books, materials, and equipment as required under the individualized education program (IEP) for each pupil with low incidence disabilities as defined in Section 56026.5 ("hearing impairments, vision impairments, severe orthopedic impairments, or any combination thereof").

Funding is determined by dividing the total number of pupils in California with low incidence disabilities, as reported in the December 1, 2005 unduplicated pupil count, in the following categories: hard of hearing, deaf, visually impaired, orthopedically impaired, and deaf-blind (**32,232**), into the annual appropriation provided for this purpose in the Budget Act including a 5.92% COLA (**\$12,760,182**), resulting in a per pupil entitlement of (**\$395.89 per pupil**). The Budget Act for fiscal year 2006-2007 allows this funding to be used only "for purchase, repair and inventory maintenance" for equipment, materials and specialized books used by students with low incidence disabilities.

As a condition of receiving these funds, "the responsible local agency shall ensure that the appropriate books, materials, and equipment are purchased, the use of the equipment is coordinated as necessary, and that the books, materials, and equipment are reassigned to local education agencies within the special education local plan area once the agency that originally received the books, materials, and equipment no longer needs them."

It is also the "intent of the Legislature that local plan areas share unused low incidence books, materials, and equipment with neighboring special education local plan areas." If the equipment, materials or specialized books are no longer needed within the special education local plan area (SELPA) or a neighboring SELPA, the California Department of Education's (CDE) Low Incidence Program Consultant shall be contacted to reassign the resources elsewhere within California. Items purchased with these funds may only be used by students with low incidence disabilities, unless a waiver has been approved by the State Board of Education.

Existing law (*Education Code* 56822) provides that "sound recordings, large print, and Braille books purchased, instructional materials transcribed from regular print into special media, and special supplies and equipment purchased for individuals with exceptional needs for which state or federal funds were allowed, are property of the state, and shall be available for use by individuals with exceptional needs throughout the state as the board shall provide."

Education Code Section 56320(g) requires that:

"The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that

disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136."

Education Code Section 56327(h) states, "The personnel who assess the pupil shall prepare a written report, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all of the following:

The need for specialized services, materials, and equipment for pupils with low incidence disabilities consistent with guidelines established pursuant to Section 56136."

Education Code Section 56345(b)(5) states, "When appropriate, the individualized educational program shall also include...

For pupils with low incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136."

Section 56136 of the *Education Code* requires the Superintendent of Public Instruction to "develop guidelines for each low incidence disability area and provide technical assistance to parents, teachers, and administrators regarding the implementation of the guidelines."

Education Code Section 56201 states, "As a part of the local plan submitted pursuant to Section 56200, each special education local plan area shall describe how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve pupils in isolated sites and maximizes the opportunities to serve pupils in the least restrictive environment."

The Individuals with Disabilities Education Act (IDEA) requires that the IEP team shall "consider whether the child requires assistive technology devices and services for all students with disabilities." IEP requirements also include the need, as appropriate, for "...Braille" instruction for students who are "blind or visually impaired", and "language and communication needs..." for students who are "deaf or hard of hearing." The CDE's Web site contains a memorandum regarding assistive technology, and details on these, and other changes in federal and state requirements resulting from reauthorization of IDEA, 2004 and other legislation.

Since the use of these funds is limited to expenditures on books, materials, and equipment for students with low incidence disabilities, the purchase must relate to the unique educational needs resulting from the low incidence disability as indicated in the IEP of eligible students. For example, regular textbooks and workbooks would not qualify in contrast to low vision aids, digital media, large print or Braille books for students who are visually impaired. Bolsters and mats for young children should be a part of basic equipment and would not qualify, while specialized adapted feeding and self-care equipment, needed by children because of their severe orthopedic impairments, would qualify. It is therefore important that specialized teachers who are

credentialed to serve students with specific low incidence disabilities be involved in the team assessment process and to attend the IEP meetings so that books, materials and equipment considered for purchase for low incidence students are related directly to the unique educational needs resulting from a low incidence disability.

It is permissible to "pool" funds to be used by one or more students with low incidence disabilities. There is no legal limitation on the amount of funding for any particular student.

Students with low incidence disabilities enrolled in non-public and private schools by the public school, or served in the student's home when required under the IEP, pursuant to SELPA local plan policies and procedures are also eligible to have books, materials and equipment purchased for their use by low incidence funds. Reasonable care must be taken, however, to prevent damage, loss or theft.

Purchasing specialized equipment and materials for infants with low incidence disabilities is also an allowable expenditure for Part C funds.

Since there may not be adequate funding in FY 2006-2007 to meet all the needs of all eligible students with low incidence disabilities, responsible local agencies should establish a priority for the allocating of these funds, using procedures outlined in the SELPAs local plan for special education.

Low Incidence funds allocated under *EC 56836.22* may not be used to:

1. Support staff development. It is suggested that technical support and training be included when equipment is purchased. SELPAs are encouraged to collaboratively develop regionalized multi-agency funded centers that can provide ongoing technical support, training and address other activities and assure funds are used in the most cost-effective manner.
2. Purchase medical therapy units for California Children's Services. Local education agencies shall provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner.
3. Purchase medical equipment needed for providing specialized health needs since *California Code of Regulations*, Title 5, Section 3051.12(b)(3)(C), states that "the school district shall not be required to purchase medical equipment for an individual student."
4. Construct or alter facilities (e.g., building ramps), or to acquire storage units.
5. Supplant books, equipment and materials that have been provided by other agencies. Low incidence funds are to be used only to supplement, and not to supplant other available funding for books, materials and equipment provided through the base program for general education and/or special education students. For example, basic computers or other basic technology should not be

purchased with low incidence funds unless it can be clearly demonstrated to fulfill a specialized function, format or adaptation directly related to the low incidence disability. General education or other special education funding should be used for purchasing such basic items.

Since use of these funds is limited, "for purchase, repair and inventory maintenance" for equipment, materials and specialized books used by students with low incidence disabilities, any "coordinating" activity necessary to allow for the tracking of books, materials and equipment for students with low incidence disabilities must come from funds other than those allocated under *EC 56836.22*.

The Low Incidence Program and the Clearinghouse for Specialized Media and Technology (CSMT) Consultants can assist and advise SELPAs or local education agencies (LEAs) in reassigning surplus materials and equipment statewide or provide information regarding the disposal of unusable surplus items. If you have any questions or need assistance in this area, please contact:

Dennis Kelleher, Ed.D, Consultant
Special Education Low Incidence Programs
California Department of Education
1430 N Street, Suite 2401
Sacramento, CA 95814
Voice (916) 327-0842 - TTY (916) 445-4556
FAX (916) 327-3706
E-mail: dkellehe@cde.ca.gov

Rod Brawley, Manager, CSMT
California Department of Education
1430 N Street, Third Floor
Sacramento, CA 95814-2343
Voice/TTY: (916) 445-5103
FAX: (916) 323-9732
E-mail: rbrawley@cde.ca.gov

Guidelines for each low incidence disability are published by the CDE, pursuant to *Education Code* Section 56136 that provide additional information about specialized books, materials and equipment. Copies of the guidelines may be ordered from:

Publication Sales
California Department of Education
P.O. Box 271
Sacramento, CA 95812-0271
Voice: (916) 445-1260 or 1-800-995-4099
<http://www.cde.ca.gov/re/pn/>

If you need technical assistance in serving students with low incidence disabilities, contact:

Assistive Technology	Dennis Kelleher	(916) 327-0842
Deaf-Blind	Dennis Kelleher	(916) 327-0842
Deaf/Hard of Hearing	Nancy Grosz Sager	(916) 327-3868
Regionalization	Nancy Grosz Sager	(916) 327-3868
Severe Orthopedic Impairments	Dennis Kelleher	(916) 327-0842
Visual Impairments	Dennis Kelleher	(916) 327-0842

Important Note: Funding for low incidence books, materials and equipment through California *Education Code* 56836.22 is State money so unused portions of these funds may be carried over. State funds for low incidence books, materials and equipment may not be commingled with funds allocated for providing specialized services to students with low incidence disabilities.

II FUNDING FOR SPECIALIZED SERVICES FOR STUDENTS WITH LOW INCIDENCE DISABILITIES

Summary of Legal Requirements

The Budget Act for FY 2006-2007 appropriates \$1,700,000, which shall be used to provide specialized services to pupils with low incidence disabilities, as defined in Section 56026.5 ("hearing impairments, vision impairments, severe orthopedic impairments, or any combination thereof.")

Education Code Section 56320(g) requires that:

"The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but no limited to, skills and the need for specialized services, materials and equipment consistent with guidelines established pursuant to Section 56136."

Education Code Section 56327(h) states, "The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following:

The need of specialized services, materials and equipment for pupils with low incidence disabilities consistent with guidelines established pursuant to Section 56136."

Education Code Section 56345(b)(5) states, "When appropriate, the individualized education program shall also include...

For pupils with low incidence disabilities, specialized services, materials and equipment, consistent with guidelines established pursuant to Section 56136."

Education Code Section 56136 requires the Superintendent of Public Instruction to "develop guidelines for each low incidence disability area, and provide technical assistance to parents, teachers, and administrators regarding the implementation of the guidelines. The guidelines shall clarify the identification, assessment, planning of, and the provision of specialized services to pupils with low incidence disabilities."

Education Code Section 44265.5 outlines credential requirements for specialized teachers serving students with low incidence disabilities:

- (a) Pupils who are visually impaired, as defined in Section 56350, shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.
- (b) Pupils who are deaf or hard of hearing shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.
- (c) Pupils who are orthopedically disabled shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.

Education Code Section 56363(b)(16) states the Designated Instruction and Services (DIS) "may include but not be limited to:

Specialized services for low incidence disabilities, such as readers, transcribers, and vision and hearing services."

These services are further defined in *California Code of Regulations*, Title 5, Section 3051.16:

"Specialized Services for low incidence disabilities may include:

- (b) Specialized services related to the unique needs of pupils with low incidence disabilities provided by qualified individuals such as interpreters, note takers, readers, transcribers, and other individuals who provide specialized materials and equipment."

Education Code Section 56201 states, "As a part of the local plan submitted pursuant to Section 56200, each special education local plan area shall describe how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve pupils in isolated areas and maximizes the opportunities to serve pupils in the least restrictive environments."

The Individuals with Disabilities Education Act (IDEA) requires that the IEP team, "consider whether the child requires assistive technology devices and services" for all students with disabilities, as well as other requirements. The Special Education Division's website contains a memorandum regarding assistive technology, and details on these, and other of the changes in federal and state requirements resulting from IDEA 2004, and other legislation.

Guidelines - Specialized Services

- **Eligibility**

Funds may be used for all pupils with low incidence disabilities (ages 0-21) as defined in law, even though they may have been counted in another category in the pupil count. For example, a pupil who is deaf and also developmentally delayed would still be eligible to receive services funded by low incidence funds even if the pupil was reported as developmentally delayed or multi-handicapped. Some pupils classified as orthopedically handicapped may not be eligible to receive low incidence funding because they are not "severely orthopedically handicapped" per the definition in *Education Code* Section 56026.5. Pupils with severe orthopedic impairments require highly specialized services, materials and equipment per *Education Code* Section 56000.5(b). Generally, a student with severe orthopedic impairment would have a medical diagnosis including significant gross motor, range of motion deficiencies.

- **Responsibility**

The SELPA has responsibility for the use of these funds, including accountability of how the funds are spent. It is the responsibility of LEAs within the SELPA to cooperate with the SELPA by providing the information needed for the proper administration of the funds.

- **Allocation of Funds**

SELPAs that serve 25 or fewer students who have low incidence disabilities will receive base funding of \$2,000, plus \$29.85 per student. Such SELPAs are designated as "sparse" and are eligible to apply for additional funding to serve students with low incidence disabilities. SELPAs serving 26 or more students who have low incidence disabilities will receive base funding of \$5,000, plus \$29.85 per pupil. The per pupil allocation is computed by taking the budget amount of \$1,700,000, and subtracting 10%, (\$170,000) for the sparse SELPA grants, \$550,000 ($\$5,000 \times 110$) for the foundation program of the non-sparse SELPAs, \$18,000 ($\$2,000 \times 9$) for the foundation program of the sparse SELPAs. The remaining \$962,000 is divided by the total number of pupils reported in California on December 1, 2005 with low incidence disabilities (32,232) which yields a per pupil entitlement for 2006-2007 of \$29.85.

Sparse SELPAs that serve 25 or fewer students with low incidence disabilities may

apply for the additional funds for low incidence specialized services through the attached application. Funds will be provided based on demonstrated need to the extent that funding is available. These sparse SELPA grant funds are not entitlements, and funding amounts may vary from year to year.

The Department has reserved **\$170,000** for low incidence specialized service grants to sparse SELPAs, in order to meet the special needs of the low incidence student population. Approved applications (form is attached) will be funded utilizing the following timeline and process:

- a. Applications, with the required documentation, must be, received, not just postmarked by the CDE by 4:00 PM January 16, 2007.
- b. Between January 17, and January 31, the completed applications will be reviewed and ranked by a committee of non sparse SELPAs representatives and CDE staff.
- c. By February 15, award letters will be sent to the successful applicants

Following is a list of the nine sparse SELPAs who are eligible to apply during 05-06 for the supplemental grant, based on the December, 2004 Low Incidence Pupil Count:

<u>SELPA</u>	<u>PUPIL COUNT</u>
Colusa County	17
Glenn County	20
Inyo County	11
Lassen County	20
Los Angeles County Juvenile Court Schools	3
Modoc County	5
Mono County	10
Plumas	20
Trinity County	12

Use of Funds (All SELPAs)

The use of these funds is limited to expenditures supporting low incidence specialized services such as "interpreters, note takers, readers, transcribers, and others who provide specialized services to students with low incidence disabilities pursuant to *Education Code* Section 56026.5. These specialized services must relate to the unique educational needs resulting from the pupil's low incidence disability or disabilities. Low incidence specialized service funds are to be used to supplement, and not to supplant existing services. (i.e., to provide additional services beyond those funded through the base program or another agency).

It is important that teachers who are credentialed to serve students with low incidence disabilities are involved in the assessment process and attend IEP meetings to assure the specialized services incorporated into the IEP are directly related to the unique

educational needs of the student.

Expenditures of low incidence specialized services funds are limited to direct services to the pupils with low incidence disabilities, and cannot be used for services to staff, or for any other purpose. These funds should not be used to provide services to meet general education needs provided through the base program.

It is permissible to "pool" funds to be used by one or more pupils with low incidence disabilities. Since there may not be adequate funding to meet the needs of all pupils, SELPAs should establish a priority for the use of these funds.

Purchasing specialized services for infants with low incidence disabilities is an allowable expenditure for Part C funds. Services must relate to a need documented in the IEP based on assessment results for each pupil receiving the services.

Personnel providing services to meet the specialized health care needs related to a student's low incidence disability must meet the requirements of the *California Code of Regulations*, Title 5, Section 3051.12(b).

Guidelines for each low incidence disability are published by the CDE pursuant to *Education Code* Section 56136. Copies of the guidelines may be ordered from:

Publication Sales
Department of Education
P.O. Box 271
Sacramento, CA 95812-0271
Voice: (916) 445-1260 or 1-800-995-4099
<http://www.cde.ca.gov/re/pn/>

It is recommended that a regionalized approach be used to provide services to students with low incidence disabilities, whenever possible. A report, titled *Regionalization for Students with Low Incidence Disabilities*, developed pursuant to ACR 55, provides information regarding the effectiveness of using regionalization. For a copy of this document, contact:

Resources in Special Education (RiSE)
Sonoma State University - CIHS
1801 E. Cotati Avenue
Rohnert Park, CA 94928
Voice: (707) 664-4394
FAX (707) 664-2417

IMPORTANT NOTE: Funding for the provision of specialized services is partially through federal discretionary funds, which cannot be carried over or co-mingled with funding for low incidence books, materials and equipment.

Frequently Asked Questions

1. There are two types of low incidence funding, one for books, materials and equipment and one for specialized services. May the SELPA combine the funds as long as they are spent on low incidence students?

No. There are two distinct low incidence funding sources, one for books, materials and equipment which is state money allocated under *Education Code* § 56836.22 the other for specialized services that is primarily Federal money which is passed through to Local Education Agencies annually as part of the state budget act. These funds must be spent for the specific, established purpose only and may not be commingled.

2. Is the SELPA permitted to carry over low incidence funding from one fiscal year to the next?

The state low incidence funds allocated for books, materials and equipment under E.C. § 56836.22 may be carried over. The Federal funds for specialized services that are passed through to the Local Education Agencies/SELPA through the budget act must be entirely spent during the fiscal year in which they are allocated or else they may be subject to recapture by the U.S. Department of Education.

3. May low incidence funding be spent in only one of the eligible low incidence disability areas even though all low incidence disability students generate income?

Yes. Although the allocation is generated on a per student basis and must be expended on only students who have a low incidence disability, there is no requirement that income be spent proportionally on each of the various disability groups consistent with the funds generated. It is a local decision of the LEA or SELPA regarding how the available low incidence funds are spent as long as revenue for equipment, books and materials isn't commingled with specialized services funds.

4. Is a SELPA or LEA required to use low incidence funding to purchase prescription devices?

The California State Board of Education has adopted *California Code of Regulations*, Title 5, § 3051.12(b)(3)(c), which states in part that "the school district shall not be required to purchase medical equipment for an individual student." Based on this regulation, the CDE has a long standing practice to encourage the purchase of prescription devices and medical equipment through other funding sources such as private medical insurance or Medi-Cal.

5. If a student with a low incidence disability within our SELPA for whom we purchased books, materials and equipment with our low incidence funds moves to a different SELPA, are we required to send the books materials and equipment with the student to the new SELPA?

No. *Education Code* § 56836.22 (e) states in part that “it is the intent of the legislature that Special Education Local Plan Areas share unused equipment, books and materials with neighboring SELPAs....” If the books, materials and equipment are still needed by other students with low incidence disabilities in your SELPA, there is no requirement to send it with the student who moved away. Providing these resources is the responsibility of the SELPA where the student now resides. If, however, books, materials and equipment purchased with low incidence funds are unused, SELPAs are encouraged to make arrangements with other SELPAs to share the unused equipment, books and materials. The CDE may be contacted for assistance in locating another SELPA that has need of the unused equipment, books or materials.

6. Our SELPA has obsolete, unusable books, materials and equipment purchased by low incidence funds. How do we dispose of these things?

Pursuant to *Education Code* § 56822 Books, materials and equipment purchased with low incidence funds remain the property of the state. When the low incidence books, materials or equipment is no longer usable, it must be handled in the same manner that books, materials and equipment purchased by state funds other than low incidence is managed pursuant to *Education Code* § 17545-17555 which requires, among other things, that the items which are obsolete or unusable be declared surplus by the Governing Board and that they be auctioned off after the public has been duly notified.

7. May we give one of our graduating high school students who has a low incidence disability the specialized equipment purchased for him by our SELPA through low incidence funds so he can use it in college?

No, to do so would be a gift of public funds, which is a violation of law. Pursuant to *Education Code* § 56822 Books, materials and equipment purchased with low incidence funds remain the property of the state. Since the student has graduated from high school, he is no longer eligible to receive special education services from your SELPA. If your SELPA no longer has use for the books, equipment or materials the CDE should be notified so that we can find another SELPA that has need of these resources. If the student needs similar equipment in college, he should contact the Department of Rehabilitation who has the legal responsibility to assist in training adults with disabilities.

8. The parents of one of our graduating high school students with a low incidence disability wish to purchase the specialized equipment from our SELPA that we provided for her use while in our special education program. May we sell it to them?

No, *Education Code* § 56822 states that books, materials and equipment purchased with low incidence funds remain the property of the state. The equipment should be reassigned to another student in your SELPA, a neighboring SELPA or the CDE should be notified to identify a SELPA that can use the equipment. Even if the equipment is so personalized that it cannot be used by another student, the procedures in *Education Code* § 17545-17555 for disposal of obsolete or unusable property must still be followed, but the parent could then attempt to purchase the equipment at the public auction held by the school.

9. We have students in our SELPA who have visual perception problems. Does this disability qualify as a visual impairment for low incidence funding?

No. *Education Code* § 56026.5 states "low incidence disability" means a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade 12. For purposes of this definition, severe disabling conditions are hearing impairments, vision impairments, and severe orthopedic impairments, or any combination thereof. Vision impairments as defined by *Education Code* Section § 56350 (c) do not include a pupil who is eligible for special education and related services based on a specific learning disability within the function of vision which results in visual perceptual or visual motor dysfunction identified pursuant to Section 56338.

10. We have a student who is both severely emotionally disturbed and blind. Will we receive low incidence funding for this student?

Visual Impairment is one of the severe disabling conditions defined by *Education Code* § 56026.5 as a low incidence disability. The language "or any combination thereof" has been interpreted to mean a student is eligible for low incidence funding if (s)he has at least one of the three severe disabling condition regardless of any other disabilities that may also be present. Therefore, a student who has multiple disabilities will generate low incidence funding as long as that student has been reported on the CASEMIS pupil count as either hearing impaired, visually impaired or severely orthopedically impaired.

2006-2007 GRANT APPLICATION
Low Incidence Specialized Services Augmentation
for Sparse SELPAs (serving 25 students or less)

SELPA Name _____
Contact Person _____ Email _____
Address _____
Telephone _____ FAX _____

Service Description	Staff FTE	Cost with Benefits	# Pupils Served	Low Incidence Disability
TOTALS				

On a separate sheet, please provide a brief **narrative** that describes the need for the services. Along with the **narrative**, include documentation to support student eligibility as determined by:

Assessment results, that include a statement as to the need for specialized services, pursuant to *EC* 56320(g), and 56327(h) and IEP documents that confirm the need for the specialized services requested in the application as required in *EC* 56136. **Submitted documents shall exclude any personally identifiable student information.**

Applications will be ranked on completeness, clarity and documented need. The higher ranked application will receive a higher prorated amount of requested funding.

Pursuant to *EC* 56201, please reference the part of your local plan that describes how specialized equipment and services will be distributed within the local plan area that minimizes the necessity to serve pupils in isolated sites, and maximizes the opportunities to serve pupils in the least restrictive environment Local Plan section _____ page number _____.

Is staff currently available to provide the services? Yes ____ No _____. If no, please include an explanation with your application, including a projected date as to when the staff will be available.

I certify that the above information is complete and accurate and that the services being requested will be provided by qualified individuals. Pursuant to the *California Code Of Regulations*, Title 5, Section 3051.16 & our SELPA is in substantial compliance with IDEA.

SELPA Administrator

Date

To be considered complete this application form with the narrative and other required information must be received by CDE not later than 4:00 PM, Tuesday, January 16, 2007. Send to:

Dennis Kelleher, Ed.D., Consultant
Special Education Low Incidence Program
1430 N Street, Suite2401
Sacramento, California 95814
Voice: (916) 327-0842 E-mail: dkellehe@cde.ca.gov